

REMARKS

Summary Of Office Action

Claims 1-35, 37-39, 41-44, 46, and 59-63 are pending in the above-identified patent application.

The Examiner objected to claims 28-31 and 37-39\* as being dependent upon a rejected base claim.

The Examiner rejected claims 1-10, 12, 14, 25, 32-35, 59, 60, and 62\*\* under 35 U.S.C. § 102(b) as being anticipated by Culpepper U.S. patent No. 3,861,679 (hereinafter "Culpepper"). Claims 11, 13, and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Culpepper in view of Official Notice. Claims 16-24, 26-27, 41-44, 46, 61, and 63 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Culpepper in view of Garver U.S. patent No. 3,529,823 (hereinafter "Garver").

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\* On page 5 of the Office Action, the Examiner also objected to claims 34 and 35 as being dependent upon a rejected base claim. Applicants believe that this was a mistake because claims 34 and 35 were rejected over Culpepper. If applicants' belief is incorrect, the Examiner is invited to so state in the next communication.

\*\* On pages 2 and 3 of the Office Action, the Examiner also rejected claim 17 over Culpepper. Applicants believe that this was a mistake because the Examiner on page 4 of the Office Action concedes that "Culpepper does not disclose a releasable ball," which is a feature of claim 17, and rejects claim 17 over Culpepper in view of Garver. If applicants' belief is incorrect, the Examiner is invited to so state in the next communication.

Summary Of Applicants' Reply To Office Action

The Examiner's objection and rejections are respectfully traversed.

The Rejection Of Claims 1 And 59

The Examiner rejected claims 1 and 59 under 35 U.S.C. § 102(b) as being anticipated by Culpepper. The Examiner's rejection is respectfully traversed.

The Examiner contends that Culpepper anticipates claims 1 and 59 because "Culpepper discloses a rigid member, first hinge, tether and ball mounting device (fig 1)" (page 2 of the Office Action). The Examiner, however, has failed to address whether Culpepper shows the structural relationship between applicants' hinge and substantially rigid member.

As defined in applicants' claims 1 and 59, the hinge is attached near the first end of the substantially rigid member. This is illustrated, for example, in FIGS. 1 and 2 where substantially rigid member 15 is attached to hinge 20 at first end 17. In stark contrast to applicants' invention, the upper end of rod 13 of Culpepper is not attached to a hinge, but to the ends of springs 11 and 12. Springs 11 and 12 cooperate to damp out rotational motion of rod 13 about coupler 17, which is attached near the middle of rod 13.

Accordingly, Culpepper fails to show or suggest a hinge that is attached near the first end of a substantially rigid member as required by claims 1 and 59. For at least this reason,

claims 1 and 49 are allowable over Culpepper. Therefore, applicants request that the rejection of claims 1 and 59 be withdrawn.

The Rejections Of Claims 2-15, 25-27, 32-35, 41-44, 46, And 60-63

The Examiner rejected claims 2-10, 12, 14, 25, 32-35, 60, and 62 under 35 U.S.C. § 102(b) as being anticipated by Culpepper. Claims 11, 13, and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Culpepper in view of Official Notice. Claims 26-27, 41-44, 46, 61, and 63 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Culpepper in view of Garver. The Examiner's rejections are respectfully traversed.

Claims 2-15, 25-27, 32-35, 41-44, 46, and 60-63 are allowable at least because independent claims 1 and 59, from which claims 2-15, 25-27, 32-35, 41-44, 46, and 60-63 depend, are allowable. Accordingly, applicants request that the rejections of claims 2-15, 25-27, 32-35, 41-44, 46, and 60-63 be withdrawn.

The Rejection Of Claims 16-24

The Examiner rejected claims 16-24 under 35 U.S.C. § 103(a) as being unpatentable over Culpepper in view of Garver. The Examiner's rejection is respectively traversed.

Claims 16-24 are allowable at least because independent claim 1, from which claims 16-24 depend, is allowable. Moreover, claims 16-24 are allowable for the following independent reason.

Claims 16-24 all include the feature that the ball mounting device comprises at least one tubular member that allows for releasable mounting of a ball.

As the Examiner concedes on page 4 of the Office Action, "Culpepper does not disclose a releasable ball." However, the Examiner contends that it would have been obvious to employ "the [releasable] ball of Garver with the apparatus of Culpepper to make the game more enjoyable to play" (page 4 of the Office Action). Contrary to the Examiner's contention, the apparatus of Culpepper is not used to play a game, but rather used to practice stroking a ball. The purpose of Culpepper's invention is to "result in a desireably smooth and rapid return of the ball to the stroking position" (column 1, lines 65-68). Culpepper improves on prior devices in which "the operator must physically return the ball to the stroking position" (column 1, lines 28 and 29). In addition, Culpepper states that the prior devices "are not adaptable to continuous usage without change of operator position" (column 1, lines 30 and 31).

If the releasable ball of Garver were to be employed with the apparatus of Culpepper, the ball would be released from the apparatus when stroked by the user. This would defeat the purpose of Culpepper's invention. Therefore, Culpepper teaches away from such a combination. Accordingly, claims 16-24 are allowable for this independent reason.

In view of the foregoing, applicants request that the rejection of claims 16-24 be withdrawn.

Objection To Claims 28-31 And 37-39

The Examiner objected to claims 28-31 and 37-39 as being dependent upon a rejected base claim. Applicants note with appreciation the indication of allowable subject matter in claims 28-31 and 37-39, and hereby expressly reserve the right to rewrite those claims in independent form should the base claims not ultimately be allowed.

In view of the foregoing, independent claim 1, from which claims 28-31 and 37-39 depend, is allowable, and therefore claims 28-31 and 37-39 are allowable. Accordingly, applicants request that the objection to claims 28-31 and 37-39 be withdrawn.

Conclusion

In view of the foregoing, claims 1-35, 37-39, 41-44, 46 and 59-63 are in condition for allowance. This application is therefore in condition for allowance. Reconsideration and allowance of the application are respectfully requested.

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deposited with the U.S.  
Postal Service as First  
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Addressed to:  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450 on  
  
*April 21, 2003*  
Claire V. Saintil van Goodman

Respectfully submitted,

*James A. Leiz*  
James A. Leiz  
Reg. No. 46,109  
Agent for Applicants  
FISH & NEAVE  
Customer No. 1473  
1251 Avenue of the Americas  
New York, New York 10020-1104  
Tel. (212) 596-9000